UNITED
NATIONS

A

General Assembly

Distr.
GENERAL

A/49/594
28 October 1994

ORIGINAL: ENGLISH

Forty-ninth session
Agenda item 100 (c)

HUMAN RIGHTS QUESTIONS: HUMAN RIGHTS SITUATIONS AND REPORTS OF SPECIAL RAPPORTEURS AND REPRESENTATIVES

Situation of human rights in Myanmar

Note by the Secretary-General

The Secretary-General has the honour to transmit to the members of the General Assembly the interim report prepared by Mr. Yozo Yokota, Special Rapporteur of the Commission on Human Rights on the situation of human rights in Myanmar in accordance with paragraph 20 of Commission on Human Rights resolution 1994/85 of 9 March 1994 and Economic and Social Council decision 1994/269 of 25 July 1994.

94-42026 (E) 111194 151194

ANNEX

Interim report on the situation of human rights in Myanmar prepared by Mr. Yozo Yokota, Special Rapporteur of the Commission on Human Rights, in accordance with Commission resolution 1994/85 and Economic and Social Council decision 1994/269

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I. INTRODUCTION

1. On 9 March 1994, at its fiftieth session, the Commission on Human Rights adopted without a vote resolution 1994/85 entitled "Situation of human rights in Myanmar". In paragraph 20 of the resolution the Commission decided "to extend for one year the mandate of the Special Rapporteur to establish or continue direct contacts with the Government and people of Myanmar, including political leaders deprived of their liberty, their families and their lawyers" and requested him "to report to the General Assembly at its forty-ninth session and to the Commission on Human Rights at its fifty-first session". The present report, which constitutes a preliminary report by the Special Rapporteur, is being presented in accordance with that request. A final report will be submitted to the Commission on Human Rights at its fifty-first session.

2. In resolution 1994/85, the Commission, inter alia: noted with particular concern that the electoral process initiated in Myanmar by the general elections of 27 May 1990 had yet to reach its conclusion; deplored the fact that political leaders remained deprived of their liberty, in particular Nobel Peace Prize laureate Daw Aung San Suu Kyi; expressed its grave concern at the violations of human rights which remained extremely serious, including, in particular, the practice of torture, summary and arbitrary executions, forced labour, including forced portering, abuse of women, politically motivated arrests and detention, forced displacement, important restrictions on the freedoms of expression and association, and the imposition of oppressive measures directed at minority groups; and expressed its concern about the continuous problems created in neighbouring countries by the exodus of refugees from Myanmar.

3. In addition to the above, the Commission took note of the fact that the Government of Myanmar had acceded to the Geneva Conventions of 12 August 1949; signed a Memorandum of Understanding on 5 November 1993 with the Office of the United Nations High Commissioner for Refugees (UNHCR) concerning the voluntary repatriation of refugees from Bangladesh; received the Special Rapporteur for a visit to Myanmar; and observed cease-fires and undertaken negotiations with several minority groups.

4. On 25 July 1994, the Economic and Social Council, in its decision 1994/269, approved Commission resolution 1994/85.

II. CORRESPONDENCE WITH THE GOVERNMENT OF MYANMAR

5. On 10 August 1994, the Special Rapporteur addressed the following letter to the Minister for Foreign Affairs of the Union of Myanmar:

> "I have the honour to refer to Commission on Human Rights resolution 1994/85 of 9 March 1994 by which my mandate as Special Rapporteur on the situation of human rights in Myanmar was extended for a third year. For your convenience, please find attached a copy of resolution 1994/85. As you may be aware, at its most recent session, the Economic and Social Council approved Commission resolution 1994/85 by its decision 1994/269 of 25 July 1994.

"By paragraph 20 of its resolution 1994/85, the Commission called upon the Special Rapporteur 'to establish or continue direct contacts with the Government and people of Myanmar, including political leaders deprived of their liberty'. Paragraph 21 urged 'the Government of Myanmar to cooperate fully and unreservedly with the Commission and the Special Rapporteur and, to that end, to ensure that the Special Rapporteur has effectively free access to any person in Myanmar whom he may deem it appropriate to meet in the performance of his mandate, including Daw Aung San Suu Kyi'.

"Accordingly, I would be most grateful to continue benefiting from the cooperation of your Excellency's Government so that I may provide the Commission and the General Assembly with a comprehensive assessment of the situation of economic, social, cultural, civil and political rights in Myanmar. In this regard, I would wish to visit your country again. Specifically, and keeping in mind the schedule of the General Assembly, I would hope that your Government would agree to my visit at about the same time as last year; may I suggest from 7 to 16 November 1994? Hoping that this would be acceptable to your Excellency's Government, may I also follow upon the suggestion made to me last year in Yangon by one governmental official that, after spending the first days of my visit in Yangon, I might spend some days in the eastern part of your country towards the frontiers? On this last matter especially, I would certainly welcome your specific suggestions. On more general and substantive issues, let me also restate my commitment to endeavouring to accord full consideration to your Government's views and that, as such, I am at your disposal to continue our dialogue about the situation of human rights in Myanmar."

6. On 23 September 1994, the Minister for Foreign Affairs of the Union of Myanmar addressed the following letter to the Special Rapporteur:

"I have the honour to refer to your letter of 10 August 1994, regarding your proposed visit to Myanmar.

"I am pleased to inform you that your proposal is acceptable to the Government of Myanmar. It is indeed our pleasure to welcome you again this year to Myanmar as an expression of our continuing cooperation with the United Nations.

"I am sure that you will have the opportunity once again to observe at first hand the consensus reached for the writing of a firm and enduring Constitution in the national political process, as well as the achievements made in the economic development endeavours.

"I shall once again try my best to make your visit in Myanmar most productive and meaningful."

7. In a letter from the Permanent Representative of the Union of Myanmar to the United Nations Office at Geneva, which accompanied the above letter from the Minister for Foreign Affairs, the Special Rapporteur was informed that the proposed dates for his visit had been tentatively agreed to.

8. On 5 October 1994, the Special Rapporteur addressed the following letter to the Minister for Foreign Affairs of the Union of Myanmar:

"I have the honour to refer to your letter of 23 September 1994, by which you communicated your Government's acceptance of my proposal to visit the Union of Myanmar in November of this year. I am most appreciative of this opportunity to examine first-hand the situation of human rights in your country and to continue in person our dialogue on issues and developments in this regard.

"With respect to the specific itinerary to be followed during my visit to your country in November, I would welcome again the opportunity of meeting with the following officials: Secretary One of the State Law and Order Restoration Council; the Minister of Information; the Attorney-General; the Chief Justice of the Supreme Court; and, of course, your Excellency. In addition, I would welcome the opportunity of meeting with the following persons: leaders of various political parties participating in the National Convention, including the Chairman of the National League for Democracy; representatives of the Myanmar Red Cross Society; and, in fulfilment of paragraph 21 of Commission on Human Rights resolution 1994/85, Daw Aung San Suu Kyi. I would also appreciate the opportunity of visiting again Insein Prison with unrestricted access to all prisoners. Finally, I would greatly appreciate the opportunity of travelling to the eastern part of your country towards the frontiers where I would hope to meet with local authorities, visit a local prison, tour some development or construction sites, and meet with such persons as I may deem relevant to my mandate.

"In keeping with my commitment to endeavouring to accord full consideration to your Government's views on the substantive issues raised in my mandate, including both general and specific allegations of human rights violations by the Government of Myanmar, I submit herewith a summary of allegations received by me in the last year. In addition to the views of your Government concerning the issues raised in the attached summary of allegations, I would appreciate receiving your Government's responses to the following:

"1. Please specify the reasons, including reference to specific legal authority, for keeping Daw Aung San Suu Kyi under house arrest after 20 July 1994, and please indicate precisely when the Government intends to release her.

"2. Please describe in as much detail as possible the present status of Daw Aung San Suu Kyi's physical health.

"3. Please detail the Government's position with regard to maintaining dialogue with Daw Aung San Suu Kyi, indicating the time-frame the Government intends to follow in this regard.

"4. Please describe in as much detail as possible the progress made so far in the National Convention and the drafting of a new constitution, indicating the anticipated schedule for future meetings.

"5. Please indicate whether or not the Burmese version of the Universal Declaration of Human Rights has been distributed to all the delegates to the National Convention.

"In so far as I would like to bring your Government's views on the attached summary of allegations directly to the attention of the General Assembly during its present session, I would be grateful of receiving your Government's comments or specific responses by 31 October 1994. I would also appreciate receiving your Government's responses to the above queries as soon as possible.

"The continuing cooperation of the Government of Myanmar in the fulfilment of my mandate is most appreciated."

III. SUMMARY OF ALLEGATIONS RECEIVED

9. The following is the text of the summary of allegations which the Special Rapporteur submitted to the Government of Myanmar with his letter of 5 October 1994 as indicated above. With due regard to General Assembly resolutions 37/14 C of 16 November 1982 and 47/202 B of 22 December 1992 and Commission on Human Rights resolution 1993/94 of 11 March 1993, concerning, inter alia, the timely submission and circulation of reports, the Special Rapporteur reproduces below the text of his summary of allegations while awaiting receipt of the views of the Government of Myanmar. Immediately upon receipt of the views of the Government of Myanmar, the Special Rapporteur shall submit an addendum to the present report reproducing the aforementioned views in their entirety.

"A. Extrajudicial, summary or arbitrary execution

"1. Numerous communications from non-governmental sources continue to be received by the Special Rapporteur reporting extrajudicial, summary or arbitrary killings of civilians by Myanmar military forces under a variety of circumstances. In the regions of the country with predominantly non-Burman populations and where insurgencies have been taking place, many of the alleged killings are summary executions of civilians who are accused of either being insurgents or collaborating with insurgents. For example, on 5 February 1994, Myanmar Army forces from Division No. 99, Battalion No. 84, reportedly arrested seven men working in a field in Pa'an Township, Thaton District, Karen State; the men were accused of collaborating with the armed Karen insurgents and two of them were executed, while the others were held to ransom and subsequently freed. Many other similar situations include allegations of such severe torture that the victims died as a result. For example, in March 1994 in Pa'an Township, Thaton District, Karen State, soldiers from the Myanmar Army reportedly arrested a 13-year-old boy driving cattle outside his village; the boy was said to have been interrogated, tortured and killed by the Myanmar forces. Other examples of alleged extrajudicial killings include the following: on 10 March 1994, forces of Light Infantry Battalion No. 59 alleged arbitrarily executed Saw Soe Ghaz Htoo (aged 35 years) in Thay Baw village, Lu Thaw Township, Papun (Mudraw) District; on 18 March 1994, forces of Light Infantry Battalion No. 59 also

alleged arbitrarily executed Saw Ko Pa Moo (aged 30 years) in Thu Daz village, Lu Thaw Township, Papun (Mudraw) District; on 20 April 1994, forces of Light Infantry Battalion No. 96 are alleged to have killed the villager Pa Kloh (aged 26 years) and wounded Saw er Ker (aged 20 years) in Paw Ghee Khee village, Thaton District; and on 10 May 1994, in Naw K'Toh village, Thaton District, two villagers (Kyaw Soe Puy, aged 32 years, and Saw Ganoo, aged 35 years) were said to have been arrested and executed by the forces of Light Infantry Battalion No. 76.

"2. Many of the reports from non-governmental sources have also described occasions where soldiers from the Myanmar Army have opened fire with light arms against civilians without any evident provocation. Such situations have frequently been reported in the process of attempts by the Army to arrest and detain civilians for the purposes of forced portering and other labour; as villagers attempt to avoid being arrested or to escape the approaching troops, soldiers are often reported to open fire. In other situations, the Army is reported to have killed civilians who have disobeyed orders from the Army to relocate their homes, to supply goods or provide labour for little or no compensation.

"3. In addition to the above, Myanmar Army troops are reported to take revenge against nearby villages after being attacked by insurgent forces. These collective and arbitrary punishments are often said to include summary executions of civilians present in the area. On 15 December 1993, for example, following an insurgent ambush of Myanmar Army forces near Htee La Nay village, Hlaing Bwe Township, Pa'an District, Karen State, a villager working in a field was reportedly shot on sight. Under similar circumstances in May 1993, two young schoolboys were allegedly shot in Kyint Kyo village, Thaton Township. It has also been reported that, in the beginning of 1994, the regional commanders in Thaton District informed the civilian headmen of the district that, in the future, five villagers would be killed for every soldier who died. However, it is not known whether these reported threats have ever been carried out.

"4. In Shan State, different sources have alleged that, since December 1993, an offensive by the Myanmar Army against Khun Sa and the so-called Ming Tai Army has included air force strikes on civilian villages in the area of the insurgency. For example, on 10 July 1994, Ban Akhu village is reported to have been attacked and two boys are said to have been killed (aged 7 and 14 years) while five other persons were wounded. Whole villages are reported to have been destroyed by the Myanmar Armed Forces because of alleged cooperation with the Ming Tai Army. As in other cases, villagers trying to escape the military forces are said to have been shot on sight upon the suspicion of being insurgents or cooperating with them.

"B. Arbitrary arrest and detention

"5. The Nobel Peace Prize winner, Daw Aung San Suu Kyi, is still being held under prolonged house detention without trial; on 20 July 1994, she passed her fifth anniversary in detention. Seeking her release and return to freedom in Myanmar, including respect for all of her civil and political rights under international law, parliamentarians, non-governmental organizations and

individuals from throughout the world sent thousands of petitions to the United Nations in the last few months.

"6. Although some political prisoners have reportedly been released in the last year from centres of detention in Yangon, reports from different sources describe how an unknown number of civilians continue to be arrested as suspected insurgents (or sympathizers thereto) and how they remain detained in countryside prisons, especially in the regions of the country with predominantly non-Burman populations.

"7. Recently, the following new cases have been brought to the attention of the Special Rapporteur. On 27 May 1994, a Swiss national displayed a banner in front of Yangon City Hall, demanding the release of Daw Aung San Suu Kyi. Seven persons who were passively observing the protest in Yangon are reported to have been arrested by Myanmar intelligence officers.

"8. On 4 July 1994 at Yangon airport, members of Military Branch Three reportedly arrested Khin Zaw Win (a university student) when he tried to board a plane for Singapore. The report indicates that Khin Zaw Win was studying in Singapore and was writing a thesis on the political situation in Myanmar; he had been visiting Myanmar in order to obtain more material for his thesis. Recent reports say that he has been transferred from the Military Intelligence Centre to Insein Prison, and is now being detained in the same cell as a supporter of the National League for Democracy. Khin Zaw Win has allegedly yet to have been charged with any offence.

"9. On 21 July 1994 in Plat Hon Pai section, Kwan Saya village, part of Halockhami refugee camp, soldiers from Infantry Battalion No. 62 of the Myanmar Army attacked the camp, destroying about 50 houses and causing some 500 Mon refugees (recently repatriated from Thailand) to flee again across the Thai border. The soldiers reportedly arrested 19 men, most of whom were camp leaders. The fate of those arrested remains unknown.

"10. On 4 or 5 August 1994 in Yangon, the following persons were reportedly arrested: U Khin Maung Swe (aged 52 years, a prominent dissident Member of Parliament-elect and member of the Central Executive Committee of the National League for Democracy); U Sein Hla Oo (aged 58 years, a journalist and opposition politician); Dr. Htun Myat Aye (a dentist who had apparently worked for the United Nations Children's Fund (UNICEF) at Yangon); Daw San San Tin (a translator who had apparently been working occasionally for UNICEF); and Daw San San Nwe (a writer) and her daughter. It is not known where these persons are being detained, nor what (if any) charges have been brought against them. It is also reported that Khin Maung Swe, U Sein Hla Oo and Daw San San Nwe have all been previously imprisoned by the Government.

"11. Since 1993, many reports from different sources have alleged a widespread practice of arbitrary arrest and detention of persons for ransom, especially in the countryside. Civilians are said to have been rounded up in various public places in both urban and rural communities and held in detention until their relatives could supply a certain sum of money or goods; these detentions are often said to be maintained under the threat that the detainees will be taken as Army porters or be executed should the ransom not be paid.

"12. The information has also reached the Special Rapporteur that, on 15 July 1994 in Insein Prison, Thet Khine died four days after a failed suicide attempt. It has been alleged that the prison authorities placed Thet Khine in the prison's Medical Unit after his attempted suicide, choosing not to take him to a hospital facility outside the Prison; he died in the prison's Medical Unit. Thet Khine was arrested in 1989 and had been sentenced to 20 years' imprisonment together with other political leaders.

"C. Torture and other cruel, inhuman or degrading treatment

"13. Numerous allegations, often in considerable detail, have been received from various sources alleging that forces of the Myanmar military, intelligence and security services and police continue to torture persons in detention or otherwise subject them to cruel, inhuman or degrading treatments and punishments. Such treatment seems to be routinely employed during the interrogation of persons who have been arrested or held on suspicion of real or perceived anti-government activities. Allegations include subjection to severe beatings, shackling, near suffocation, burning, stabbing, rubbing of salt and chemicals in open wounds and psychological torture, including threats of death. Other reported methods of torture include forcing victims to consume large quantities of water or pouring hot liquids down victims noses or throats.

"14. The Special Rapporteur has continued to receive information from many sources indicating that rape occurs on a wide scale; reports of so-called gang rapes by entire groups of Myanmar military personnel are not uncommon. The victims are mostly reported to be women belonging to minority populations, although allegations of homosexual rape have also been received (including, e.g., the written testimony of a 13-year-old boy from Thaton Township, Thaton District, Karen State). Women serving as porters or otherwise as forced labourers are especially vulnerable and are often said to be victims of rape. It is also reported that rape is being used as a punishment for joining indigenous women's groups. Some of the reported rapes are said to have lead to death as a consequence of continuous rape or by infections caused by rape. Reports also describe situations where women who have resisted rape, or screamed during rape, have been killed. Furthermore, rape is also alleged to be used as a method of forcing women from ethnic minorities to marry soldiers from the Myanmar Army; the children of these marriages are subsequently considered to be of Burmese nationality.

"15. An especially severe incident which has been brought to the attention of the Special Rapporteur reportedly occurred on 2 August 1993 in Won Mon village, Won Tse village circle, Laikha Township in Southern Shan State, when Myanmar Army soldiers from Infantry Battalion No. 64 were said to have entered the village in search of a defector: they allegedly arrested 12 women (ages 15 to 35 years) and took them to a nearby farm for interrogation, whereupon the women were gang-raped.

"D. Forced labour

"16. In his 15 August 1994 statement to the United Nations Subcommission on Prevention of Discrimination and Protection of Minorities at its forty-sixth session, Ambassador U Tin Kyaw Hlaing of the Permanent Mission of Myanmar to the United Nations Office at Geneva stressed the following: 'In Myanmar, voluntary contribution of labour to build shrines, temples, roads, bridges, etc. is a long-established tradition going back centuries.' While the Special Rapporteur observes that uncoerced contribution of labour for the public good can hardly be described as a violation of human rights, it is to be noted that numerous reports from a wide variety of sources still characterize most of the contributed labour as being conducted under various threats of violations of personal integrity rights or property rights. In general, reports of such forced labour may be divided into three categories: forced portering, other forced labouring and different kinds of obligatory guard duty.

"17. As has been previously reported by the Special Rapporteur, much of the forced portering in Myanmar has occurred in connection with military campaigns against insurgent forces in various of the states of the Union of Myanmar. Although cease-fire talks between the Government and the main insurgent groups were agreed upon in late 1993 and early 1994, reports on forced portering for the Army still flow in from different sources. For example, in May 1994 the Myanmar Army is said to have arrested hundreds of persons in Tachilek in Shan State in order to use them as Army porters in the battle against Khun Sa and the Ming Tai Army. Porters were reported to have been forcibly recruited from all public places and also from private homes in the areas of Kalaw, Taunggui and Tachilek. Fighting between the Myanmar military and the Ming Tai Army is reported to have been intense with high casualty figures on both sides, including the deaths of many porters caught in the cross-fire. The Myanmar authorities have also reportedly failed to protect civilians from being forced to porter for the Ming Tai Army. Moreover, the Myanmar Army has allegedly regularly been taking internally displaced persons from a camp established by the Myanmar Army at Loi Hsa Htoong near the border with Thailand for purposes of portering military matériel as needed.

"18. Forced portering has been reported especially in the areas of conflict in the Karen, Karenni, Shan and Mon regions. Persons taken for portering are reported to have been rounded up by the military in various places, such as schools, buses and market places. Convicts are also said to be used as Army porters, especially at the front lines of the fighting. Reports indicate that porters are forced, under very poor conditions, to carry heavy loads of Army matériel and supplies for the troops. They are said to be given very small or spoiled food rations, little water and no medical care if ill or wounded. Large numbers of porters are reported to have died from ill-treatment, illness and malnutrition. Irrespective of their condition, those who can no longer respond to the heavy physical demands of portering are reportedly routinely abandoned without food, or simply executed on the spot. Porters who attempt to escape are reportedly shot.

"19. Allegations have also been made that elderly persons, women and children have been taken as Army porters. These persons are often said to be used as human shields in military operations.

"20. Of a similar nature to forced portering in support of military activities, the Special Rapporteur has received information alleging the use of civilian labour, under coercive measures, for other purposes. Reports indicate that villages near Army camps are obliged to supply daily workforces to assist with the construction of Army barracks, fences, land clearance, wood-cutting operations, agricultural projects and other activities in direct support of the Army camps.

"21. In connection with certain large development projects initiated by the Government of Myanmar, some of them with the assistance of foreign aid, it has been alleged that civilians have been forced to contribute non-recompensed labour. Such projects include the building of hospitals, roads, railways, gas pipelines, bridges, and fisheries. Reports indicate that people from villages in the areas of various projects are frequently obligated to contribute their labour and other resources, often under threat of violation of their personal integrity rights.

"22. Many reports of considerable detail have been received alleging a variety of violations of human rights on a massive scale in connection with the construction of a railway between the city of Ye in Southern Mon State and the city of Tavoy in Tenasserim (Taninthari) Division. The Government reportedly began construction of the railway in November 1993. According to reports received, each family from the villages along the line and also from surrounding areas is obliged to supply one worker for 15 days at a time in rotating shifts. Almost all the civilian families in Ye Township, Thanbyuzayat Township and Mudon Township of Mon State, as well as Yebyu Township, Tavoy Township, Launglon Township and Thayet Chaung Township of Tenasserim Division, are said to have been forced to contribute labour for the railway's construction. The workers are reportedly required to bring their own food, provide their own shelter, ensure their own health and medical needs, use their own tools and, in some cases, also supply materials for the construction of the railway. Allegations have also been made that the military supervising the construction of the railway demands money for the use of bulldozers available at construction sites; the fuel needed for use of the bulldozers is also said to be sold by the military. Despite articles in the official government press stating that wages have been paid to local persons participating in ground-levelling and other work associated with the construction of the railway (e.g., an article published in the 31 July 1994 edition of the New Light of Myanmar), reports received consistently estimate that over 100,000 persons have had to contribute their labour for the railway project without any compensation. Elderly persons, children and pregnant women are also reported to have been seen as labourers along the railway. Several persons are also reported to have died from illness and accidents caused by poor conditions at construction sites. Forced labour is said to be concentrated in seven main control centres from Ye to Zimba, namely: Paukpingwin, Kinbun, Natkyizin, Paya Thone Su, Yapu, Kyanor and Zimba. Each of the aforementioned centres is alleged to control 7,000 to 8,000 forced labourers daily. The land along the railway's route is said to have been confiscated from its owners without compensation. Myanmar Army battalions (especially Light Infantry Battalion Nos. 343, 407, 408, 409 and 410, together with regular Infantry Battalion Nos. 61 and 104) are reported to be responsible for the construction of the railway. The railway is expected to be completed sometime during 1996.

"23. As other examples of forced labour allegedly being used in relation to major development projects, information has been received relating to a road project started in December 1993 between Bo Pyin and Lay Nya in Mergui/Tavoy District. Every family from the villages along the road have reportedly to participate in its construction by building 10 feet of the road. Forced labour is also said to be used in the construction of an international airport at Bassein and a new military airfield in Laboutta Township. In addition, many other smaller development projects in urban areas, such as the restoration of tourist sights in Mandalay, are reported to rely upon forced labour.

"24. Another form of forced labour which has been reported to the Special Rapporteur alleges the requirement of lengthy guard duty by civilians along roads and railways in many of the regions where insurgencies have been taking place. Reports indicate that civilians from nearby villages are often required to serve 24 hour guard duties without compensation and on threats of violations of their personal integrity rights. In addition, such 'guard duty' is often said to include contribution of physical labour for reparations to the roads and railroads. Furthermore, some reports allege that civilians used for such duties, in particular women and children, are also required to sweep roads for land-mines; it has been alleged that villagers have been forced to walk or ride in carts in front of military columns in order to 'detect' mines.

"E. Violations of the freedom of movement

"25. Reports continue to be received alleging the forced relocation and internal displacement of persons on a wide scale: in the past six years, it has been estimated that over 1 million persons have been forcibly relocated, without compensation, to new towns, villages or relocation camps or have been internally displaced owing to armed conflict with various insurgent groups. In the regions of the country with predominantly non-Burman populations and where insurgencies have been taking place, the inhabitants of small villages are still said to be forced to relocate to larger villages or to temporary relocation camps for purposes of enabling government forces better to control the populations. In those cases when the inhabitants of a village refuse to relocate, they are said to be first threatened in various ways prior to being forcibly evicted and having their homes destroyed.

"26. Forced relocations and evictions have also been reported in connection with major development projects. According to several non-governmental sources, the gas pipeline project from the Martaban Gulf to Thailand led to the forcible relocation of villages in Mergui/Tavoy District in December 1993: villagers around B'saw Law were allegedly forced to move to Kaleingung; villagers around Shwetapi were allegedly forced to move to Huan Gui; and villagers in the Baw Law Gui area were allegedly forced to move to Ye Byu. All the relocation sites are said to be along a government-controlled road near to the coast.

"27. In connection with the reports of forced relocations of persons' residences, information has been received by the Special Rapporteur that other restrictions are placed on the liberty of movement of relocated persons. For example, some persons are said to have been placed in 'relocation camps' which are surrounded by high fences and guarded by Government forces. Reports allege

that a curfew from 0600 to 1800 hours is in effect in these camps, despite the fact that the official curfew order was lifted by the Government of Myanmar on 10 September 1992. Persons held in the relocation camps, or who are otherwise apparently required to remain within the confines of the villages to which they have been forcibly relocated, are reportedly prohibited from returning to tend to their farms or to collect property which they were forced to leave behind. In some places, persons needing to go outside a village or a camp (e.g., for purposes of work) are reported to need special permission, which is issued for one day at a time against a fee, from the local Army headquarters. In certain rural areas, persons are reportedly prohibited from spending the night in temporary shelters at their farms.

"28. While most reports concerning alleged violations of freedom of movement detail incidents of forced relocation, the Special Rapporteur has also received reports alleging forced assembly and participation in public meetings organized by the Government. Such reports have mostly related to meetings of the Union Solidarity Development Association organized since the beginning of 1994 in different parts of Myanmar (e.g., Toungoo, Monywa, Mandalay and Lokaw). People from the surrounding areas were reportedly forced to attend these meetings under various threats, such as deprivation of electricity or water supplies, monetary fines or physical abuse. Students are said to have been told by their teachers that if they failed to attend the rallies they would each receive 15 lashes of a cane. The Union Solidarity Development Association rally held on 7 February 1994 in Prome town in Pegu District is reported to have been preceded by chaos when large numbers of people who had been brought into a fenced compound the night before were not allowed to leave the compound for purposes of going to the toilet: in the hysteria which accompanied a fight between civilians and security forces, 2 men are reported to have been trampled to death while over 20 other people were said to have been wounded.

"F. Violations of the right to property

"29. Many reports received by the Special Rapporteur allege various kinds of violations of property rights, especially by the Myanmar military forces. These reports include allegations of regular looting of villages in the countryside, the arbitrary and unlawful institution of a wide variety of fees for various purposes and the application of military orders against civilians requiring them to provide specified goods without adequate compensation.

"30. Myanmar Army troops are frequently reported to have entered villages and to have confiscated, without compensation, different kinds of valuables in the forms of non-perishable personal property, food supplies and livestock. Among the goods reportedly confiscated are many items which cannot be said to be necessary for purposes of providing public security, for example women's sarongs, jewellery, tape-recorders and alcohol.

"31. Various kinds of fees are said to be regularly demanded from both individuals and villages as a whole. The most widespread fee is said to be the 'porter fee' which is allegedly demanded each month from every family: in towns, the fees are reported to be about 100 kyats per month, while in the countryside they are reported to be between 200 and 400 kyats per month. Recent

reports have also alleged the application of other kinds of fees, such as 'courier fees' and taxes on tools, carts and other goods. As noted above, villagers in the areas of development projects are also said to be forced to participate in the funding of these projects; fines are also reportedly assessed if a family is unable to supply the demanded amount of forced labour or a minimum amount of demanded goods. People who are unable to pay assessed fees or fines are reportedly threatened with being taken away to be used as Army porters or for other purposes of long term and heavy forced labour.

"32. Reports received in the last several months allege that the Myanmar Army has started to demand 'compensation' from local villagers for vehicles and other military property damaged by land-mines. Fines of 100,000 kyats are said to have been demanded from the village closest to the place of an incident, with 50,000 kyats being demanded from as many as 10 or 12 of the surrounding villages. For example, in Thaton Township a truck was reportedly destroyed by a land-mine on 29 January 1994: the two nearest villages, Tor Klor Khee and Tor Klor Po Khee, were said to have been fined 300,000 kyats by Myanmar Army Infantry Battalion No. 120. Village headmen in Thaton Township have also reportedly been forced to sign documents taking all responsibility for security in the area and to pay fines of 50,000 kyats if shelling by insurgent forces occurs or to pay fines of 100,000 kyats if Army trucks are damaged by land-mines.

"33. Other reported incidents of 'compensation' being required from villagers following loss of property by the military include reports of cases where owners of cattle which have been killed by Army land-mines close to Army camps have had to pay compensation for the destroyed land-mines. In one reported incident, villagers had to pay 'compensation' to members of the Armed forces for the bullets fired at them when, in fear of being taken as porters, the villagers tried to escape the soldiers.

"34. Farmers are also said to have been forced to sell parts of their crops to government-related agencies for prices well below market price, in addition to paying the fixed government tax on these crops. As a result, it has been reported that some farmers no longer cultivate their fields in order to avoid the constant confiscations of their crops or the obligations to sell parts of their crops well below market value. In addition, reports have also described how soldiers sometimes deliberately destroy rice paddies and other crop fields. For example, on 21 February 1994, Light Infantry Battalion No. 32, led by Captain Myo Lwin Thet Lwin, allegedly burned down the houses of four villagers in Taree Hta Gaun village in Kya In Seik Gyi Township, Dooplaya District, destroying in the process the stored crops of rice, betelnut and pepper.

"35. With respect to real property, reports indicate that Myanmar military forces frequently confiscate land in all parts of the country, without paying any compensation. Such confiscations have been reported in relation to the realization of development projects, the creation of State farms, or for the personal benefit of military commanders. For example, in Tacheilek, Shan State, it has been alleged that senior members of the Myanmar Army confiscated paddy fields, divided them into blocks and sold them back to farmers or to officers under their command.

"G. The situation of refugees from Myanmar

"36. According to information received by the Special Rapporteur, approximately 75,000 refugees from Myanmar are estimated to live in camps inside Thailand along the border with Myanmar. An unknown number of persons, possibly as many as 100,000, are said to be internally displaced on the Myanmar side of the border. These persons are reported to have fled their villages in fear of ill-treatment, forced portering, forced labouring or other human rights violations. Some 200,000 Muslim refugees from the northern Rakhine State are still in Bangladesh after fleeing their homes in Myanmar. Many of them reportedly allege that they were forcibly relocated or that their land was confiscated for government construction projects, prawn cultivation or timber projects during 1990-1992.

"37. Recently, thousands of Mon refugees were repatriated from Loh Loe in Thailand to Halockhami inside Myanmar. On 21 July 1994, the refugee camp inside Myanmar was reportedly attacked and partly destroyed by approximately 300 soldiers of the Myanmar Army's Infantry Battalion No. 62 under the command of Deputy Battalion Commander Lt. Col. Ohn Myint. Fifty refugees were said to have been taken hostage by the troops while all the Mon refugees (approximately 5,000 to 6,000 persons) in the camp fled back into Thailand. Although reports indicate that most of the hostages were later released (after allegedly having been used as human shields and porters), 19 of those taken hostage are still believed to be detained."

UNITED
NATIONS

A

General Assembly

Distr.
GENERAL

A/49/594/Add.1
9 November 1994

ORIGINAL: ENGLISH

Forty-ninth session
Agenda item 100 (c)

HUMAN RIGHTS QUESTIONS: HUMAN RIGHTS SITUATIONS AND REPORTS OF SPECIAL RAPPORTEURS AND REPRESENTATIVES

Situation of human rights in Myanmar

Note by the Secretary-General

Addendum

The Secretary-General has the honour to transmit to the members of the General Assembly an addendum to the interim report prepared by Mr. Yozo Yokota, Special Rapporteur of the Commission on Human Rights on the situation of human rights in Myanmar, in accordance with paragraph 20 of Commission on Human Rights resolution 1994/85 of 9 March 1994 and Economic and Social Council decision 1994/269 of 25 July 1994.

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ANNEX

Addendum to the interim report on the situation of human rights in Myanmar prepared by Mr. Yozo Yokota, Special Rapporteur of the Commission on Human Rights, in accordance with Commission resolution 1994/85 and Economic and Social Council decision 1994/269

1. The Special Rapporteur submitted to the Government of Myanmar, on 5 October 1994, a summary of allegations he had received concerning human rights violations in Myanmar (for the text, see A/49/594, para. 9). In his accompanying letter, the Special Rapporteur requested the Government of Myanmar's responses to five specific questions (see A/49/594, para. 8).

2. By note verbale dated 4 November 1994, the Permanent Mission of the Union of Myanmar to the United Nations Office at Geneva transmitted the responses of the Government of Myanmar to both the Special Rapporteur's summary of allegations received and the five specific questions put in his letter of 5 October 1994.

3. The following is the full text of the Government of Myanmar's response to the summary of allegations received by the Special Rapporteur:

"OBSERVATIONS AND REBUTTALS ON THE SUMMARY OF ALLEGATIONS

"A. Extrajudicial, summary or arbitrary execution

"1. No instances of extrajudicial, summary or arbitrary execution can be permitted in the Union of Myanmar and no provision is made in the law for such.

"2. With regard to the allegations against some members of the Tatmadaw (Myanmar Armed Forces) in Kayin State in the first paragraph under this heading, the events mentioned have not been found in either military or civilian reports. Neither have any reports of such events ever been received from the local populace.

"3. Since names such as 'Lu Thaw Township' and 'Mudraw District' that appear in the allegations are used only by Kayin armed groups, these allegations could only be the fabrications of the Kayin armed groups.

"4. In alleged cases of murder and rape there exist no specific details of which particular Tatmadaw member perpetrated rape against which particular Kayin woman. If there could be a precise and concrete evidence and proof, the guilty person will be uncovered and action will surely be taken in accordance with law.

"5. In Shan State, air strikes were made only on strongholds of the Ming Tai Army armed drug traffickers during the military operations against them

by the Tatmadaw. The strikes were carried out only during the time of the operations in the months of May and June 1994 and there were no air strikes on 10 July 1994 as alleged.

"6. Within the area of operation, the reason that the populace have fled was not because they were forced to do so by the Tatmadaw. The villagers from around this area were sympathizers and supporters of Khun Sa and his group, and were actively involved in such activities as poppy cultivation, opium production and drug trafficking. When the Tatmadaw columns approached the area, they fled because they were afraid that legal action would be taken against them.

"7. Members of the Tatmadaw have to observe not only the Defence Services Act and the Defence Services Rules, but also the Civil and Criminal Procedures. A member of the Tatmadaw who breaks the law is punished by both the military and civil courts. According to the Defence Services Act, murder and rape are crimes for which the maximum sentence of the death penalty can be meted out.

"B. Arbitrary arrest and detention

"8. In the Union of Myanmar, a person cannot be arrested and detained if it is not in accordance with the law. It is provided in section 61 of the Code of Criminal Procedure that no police officer shall detain in custody a person for a period exceeding 24 hours. Where it is necessary to detain such an accused for more than 24 hours, special order of a magistrate has to be obtained under section 167 of the Code of Criminal Procedure. The arrested person has the right of defence and the right to have legal defence counsel. Moreover, the arrested or detained person has the right to apply freely for bail to the magistrate concerned and the court may grant him bail according to the merits of the case.

[Reference: paragraph 5]

"9. Daw Aung San Suu Kyi is restrained after 20 July 1994 in accordance with section 10 (b) and section 14 of the Law to Safeguard the State against the Dangers of Those Desiring to Cause Subversive Acts. Under section 10 (b) of the said law, the Central Body, consisting of the Minister for Home Affairs as Chairman and the Minister for Defence and the Minister for Foreign Affairs as members, may restrain a person against whom action is taken, up to one year, for safeguarding the State against danger. If it is necessary to continue the restraint of the person against whom action is taken, on the completion of one year, the Central Body may continue the restraint, with the prior sanction of the Council of Ministers, year by year, up to five years. Hence, a person against whom action is taken may be restrained for one year in accordance with section 10 (b) of the Law to Safeguard the State against the Dangers of Those Desiring to Cause Subversive Acts, and restraint may be continued against that person, year by year, up to five more years in accordance with section 14 of the said law.

[Reference: paragraph 7]

"10. The allegation that seven persons, who were passively observing a Swiss national displaying a banner in front of Yangon City Hall and demanding the release of Daw Aung San Suu Kyi on 27 May 1994 were reported to have been arrested, is not true. No one was arrested nor interrogated.

[Reference: paragraph 8]

"11. On 4 July 1994, security personnel of Yangon Airport caught Khin Zaw Win with seditious anti-government literature and computer disks and confidential data from the Ministry of Energy, together with 62 polished rubies and sapphires and undeclared foreign currency, which he was trying to smuggle out of the country. Since December 1992, Dr. Khin Zaw Win and his colleagues - U Khin Maung Swe, U Sein Hla Oo and Daw San San Nwe - met with foreign journalists and contacted diplomats of some foreign embassies to send news comments that were against or were critical of the Government in order to make foreign Governments misunderstand the Government of Myanmar. They also made frequent contacts with a representative sent by the All-Burma Student Democratic Front terrorist group and the expatriate Sein Win group to exchange information and provide news and manuscripts for publications of these terrorist groups in the jungles. They also distributed seditious documents from the expatriate groups, some of which were seized from their houses by the authorities.

"12. Accordingly, the Mingaladon Township Court found Dr. Khin Zaw Win guilty of illegal acts:

"(a) Under section 17 (a) of the Unlawful Associations Act (1908) for contacting some members of the terrorist groups and providing funds for them. He was sentenced on 6 October 1994 to three years' imprisonment after due process of law;

"(b) Under section 5 (e) of the Emergency Provisions Act for arranging to write and distribute seditious literature. He was sentenced on 6 October 1994 to seven years' imprisonment after due process of law;

"(c) Under section 9(2)/24(1) of the Foreign Exchange Regulations Act (1947) for trying to smuggle out precious stones and foreign currency. He was sentenced on 6 October 1994 to three years' imprisonment after due process of law.

"13. Moreover, Yangon Divisional (Northern District) Court found Dr. Khin Zaw Win guilty of an illegal act under section 5(2)/(4) of the Government Official Secret Act (1923) for smuggling out confidential data from the Ministry of Energy of the Government of the Union of Myanmar. Accordingly, he was sentenced on 6 October 1994 to two years' imprisonment with labour.

[Reference: paragraph 9]

"14. On 21 July 1994, a Tatmadaw column found 105 huts belonging to the family quarters of the Mon armed group near Halockhami village while performing duties for the prevalence of peace and security in that area. They cleared the huts and caught four members of the Mon armed group. On 22 July 1994, the Tatmadaw column returned to Thanbyuzayat. On the way back, they discovered about 1,000 timber logs felled by the Mon armed group, which were about to be smuggled out. At that site, seven civilians were held for questioning. They were later released and only the four members of the Mon armed group were detained. The Tatmadaw column only entered and cleared a camp of the family members of the Mon armed group, situated near the Halockhami Mon camp. The Tatmadaw column never entered the Halockhami camp. The column was just performing its duty for the prevalence of peace and security of the area.

[Reference: paragraph 10]

"15. The Mingaladon Township Court found U Khin Maung Swe, U Sein Hla Oo, Daw San San Nwe and her daughter Ma Myat Mo Mo Tun guilty of an illegal act and criminal offence under section 5 (e) of the Emergency Provisions Act and section 109 of the Code of Criminal Procedure for their collaboration with Dr. Khin Zaw Win in writing and distributing false news that could jeopardize the security of the State. Accordingly, they were sentenced on 6 October 1994 to seven years' imprisonment.

"16. Moreover, Daw San San Nwe was sentenced to three years' imprisonment under section 17 (1) of the Unlawful Associations Act (1908) on 6 October 1994 by the same court for contacting some members of the terrorist groups and providing funds for them.

"17. The above-mentioned persons had the right of defence and the right to have legal defence counsel for their cases.

"18. Dr. Htun Myat Aye has not been detained. As he was aware of the movements of Dr. Khin Zaw Win and his colleagues, he was questioned and then released.

"19. When legal action was taken against Dr. Khin Zaw Win and his colleagues, Daw San San Tin was not included.

[Reference: paragraph 12]

"20. Thet Khine was a member of the 'Burma Communist Party' underground movement. He attempted to cause injury to himself while serving his sentence in Insein Prison. He was hospitalized, but did not die in Insein Prison on 15 July 1994 as alleged. He is still living.

"C. Torture and other cruel, inhuman or degrading treatment

"21. Torture and other cruel, inhuman or degrading treatment are illegal in the Union of Myanmar. Under section 330 of the Penal Code, whoever voluntarily causes hurt for the purpose of extorting confession shall be punished with imprisonment for a term which may extend to seven years and shall be liable to fine. Under section 24 of the Evidence Act, a confession made by an accused person is irrelevant in a criminal proceeding, if the making of confession appears to the court to have been caused by any inducement, threat or reward.

"22. Under section 43 of the Police Act, whoever commits torture on any detainee is liable to both imprisonment and fine. Under the Myanmar Police Manual, police officers of all ranks are rigorously required not to do anything that might tarnish the image of the police force even with the slightest show of harshness or violence in the treatment of persons in custody. The maltreatment of defenceless persons will lead to the dismissal of the guilty police officer. It is, therefore, clear that torture and other cruel, inhuman or degrading treatment are prohibited by the relevant laws in Myanmar.

[Reference: Paragraph 15]

"23. There exist some members of Tatmadaw who break the law and actions have been taken against them. But with regard to the allegation that 12 women from Won Mon village and Won Tse village circle in Laikha Township were gang-raped by some Tatmadaw personnel, no reports from civil or military have been received and no information about the alleged incidence has been received from the local populace. Here again, no concrete proof has been provided.

"D. Forced labour

"24. With regard to allegations of forced portering, the use of civilians as labourers in Myanmar has been practised since the time of the colonial rule, under the laws promulgated by the British. Following independence from the British, successive Governments have continued this practice according to the law.

"25. An abstract of the instructions concerning the use of civilian labourers by the Tatmadaw is provided herewith: Members of the Tatmadaw who are on active duty and who are unable to perform certain tasks can hire civilian labourers to assist them. The labourers must be paid from the time they leave their respective homes until they return on completion of their duty. Apart from the daily wages, they are entitled to receive rail and steamer travelling warrants or cash to cover the actual cost of transport to and from their homes and the operation area. The respective military unit has the responsibility of providing accommodation, messing, medical cover, and social welfare benefits for the hired labourers. Daily wages for these persons must be commensurate with those prevailing in the area.

"26. According to instructions issued by the Office of the Quartermaster General on 30 March 1993, a civilian labourer is to receive a daily wage of 20 kyats. In addition to the daily wage, the following daily rations are to be issued:

(a) Rice: 28 ounces;

(b) Cooking oil: 1.75 ticals

(c) Salt: 1.75 ticals

(d) Split peas: 5 ticals

(e) Saltfish: 5 ticals (in areas where saltfish is not available, four ounces of canned food may be substituted).

"27. Civilian labourers used in operation areas are looked after by the Tatmadaw. Besides giving out daily wages, the Tatmadaw provides medical care for sickness and injuries. A compensation equivalent to 36 times a month's earning is paid to the family on the death of a labourer. These matters are carried out systematically according to the Defence Services Council Order No.17/90 issued by the Office of the Quartermaster General on 3 September 1990.

"28. It can therefore be seen that the Tatmadaw is using civilian labourers or porters systematically, according to the law.

"29. The allegations that the Tatmadaw has recruited porters by force from big cities such as Tachileik, Kyaington and Taunggyi to use in the military offensive against the drug warlord Khun Sa are false.

"30. The reason why the Tatmadaw has to use such recruited civilian labourers is that there exist armed groups that terrorize and endanger the lives of Myanmar citizens. As the terrain of Myanmar is mountainous and thickly forested, many places are not accessible to vehicles. In order to overcome the difficulty, the State Law and Order Restoration Council has been inviting armed groups to return to the legal fold. As a result, 13 such groups have done so and the problem of having to use recruited civilian labourers or porters no longer exists in the areas once occupied by them. The porter problem continues to be present only in the Kayin, Karenni and Mon regions.

"31. For the United Nations to help in the elimination of the use of porters, it would be helpful to provide support for the regional development projects and anti-narcotic endeavours undertaken by the Government of Myanmar. Furthermore, it is not helpful to the process of reconciliation, if certain outside organizations continue to provide support to the Kayin and Mon armed groups. The Government of Myanmar wishes to promote brotherhood among its peoples and solve all problems peacefully. Without outside influences complicating the issues, unfounded allegations will soon fade away.

"32. Regarding allegations of other forced labouring, it has always been a tradition in the Myanmar culture of donating labour in the building of pagodas, monasteries, roads and bridges. A belief persists that doing so leads to mental and physical well-being. Those who can afford to, donate money, while those who cannot, donate their labour. It is widely accepted that voluntary work for the good of the community is not tantamount to forced labour or a violation of human rights.

"33. There have been allegations of violation of human rights in connection with the construction of railway lines. Rail links are part of development projects that benefit the local populace and people take part enthusiastically and conscientiously in the construction works. As such, it cannot be construed as forced labour.

"34. Since the State Law and Order Restoration Council assumed State responsibilities, Myanma Railways has been building new railroads. From that time until December 1993, 294.06 miles of new railway lines have been laid down. The construction was divided into 13 sectors, of which 4 were undertaken by the workers of the Myanma Railways.

"35. The following amounts of money have been paid by the Government for the contributors of labour and for other community development projects of the respective areas:

(a) Tadar U Myo Thar sector: K6 lakh for Ngazun Township and K8 lakh for Tadar U Township;

(b) Aungban-Pinlaung sector: K100 lakh for the villagers and K28.43 lakh for compensation for land taken up by the railway line;

(c) Pinlaung-Loikaw sector: K100 lakh for the villagers and K9.12 lakh for compensation for land and houses taken up by the railway line;

(d) Chaung U-Magyee Bok sector and Pakokku-Minywa sector: K82.9 lakh for the villagers.

"36. A medical doctor was assigned to each of the sectors by the Myanma Railways during the construction of the railway lines and the Chief Medical Officer tours the area often in order to provide health care for the local populace.

"37. At present, there are three sectors of railway lines under construction. They are:

(a) Pakokku-Gangaw-Kalay sector (212.12 miles long): a total of K181.7 lakh has been paid out to the villagers of Pakokku subsector and K118.4 lakh for the Kalay subsector;

(b) Shwenyaung-Namhsan sector (153.62 miles long): K103.8 lakh has been paid out to the villagers;

(c) Ye-Dawai sector (100.08 miles long): K124.6 lakh has been paid out to the villagers.

"38. Health care has been provided as in the other areas.

"39. In case of injuries and casualties arising from the construction works, provisions have been made by the Myanma Railways for adequate monetary compensation.

"40. Regarding allegations about minors used as labourers along the railway line, these allegations were made in general with no reference to specific name, address or place. As such, no action can be taken. The Union of Myanmar acceded to the Convention on the Rights of the Child on 16 July 1991 and the Child Law was promulgated on 14 July 1993. A National Committee, State/Division and District Level Committees concerning the rights of the child have formed, and there have been no complaints about forced child labour as alleged.

"41. If a person is found guilty of forcing a child to work under life-threatening or dangerous conditions, or making a child engage in work that would result in contracting disease, the person will be sentenced to six months' imprisonment or a fine of K10,000 or both.

"G. The situation of refugees from Myanmar

"42. The Buthidaung and Maungdaw areas in Rakhine State share a common border with Bangladesh and, from time to time, people from the Bangladesh side cross over and settle in these areas. They are drawn for reasons such as the spacious land, the presence of relatives, the fertile land for agriculture.

"43. In early 1992, the Government of Myanmar started construction projects for the development of the border areas. For some reason, these projects created concern among some in the regional community as well as members of the kalaspe armed groups which were based in the other country and who would infiltrate into Myanmar from time to time. Consequently, giving the reason of having to contribute labour for the construction projects, they started to cross over to the other side individually or in groups. About that time, news spread that relief goods were being distributed freely in the other country. Thus, starting from the second week of January 1992, whole families began to cross over. Also during 1991 when authorities concerned took normal measures throughout the country for the issuing of Citizen Identity Cards, some persons from these areas who dare not face scrutiny also fled over to the other side. At no time was there any forced relocation.

"44. The programme for voluntary repatriation to Myanmar of the area residents began in September 1992 after talks between the Myanmar and Bangladesh authorities. Starting from February 1994, a liaison office of the Office of the United Nations High Commissioner for Refugees (UNHCR) was opened in Yangon and, shortly after that, UNHCR field officers were on the

ground to assist with the voluntary and safe repatriation. The process of receiving returnees from Bangladesh is going smoothly. There have been 17 high-level meetings of the Myanmar and Bangladesh authorities regarding the repatriation process. As at 5 October 1994, 81,212 people have returned out of their own will; 273,704 people have been screened by the Bangladesh authorities and as at 27 February 1994 the number screened and received by the Myanmar side was 135,316. The programme is targeted to be completed during 1995.

"45. The people living in camps inside Thailand along the border with Myanmar are the family members of the armed groups. They live in the areas along the border line where the armed groups operate and they make frequent cross-overs to the other side. When armed clashes occur near the border, these family members of the armed groups cross over the border and camp out temporarily on the other side.

"46. With regard to the alleged attack on the Halockhami Mon camp by a Tatmadaw column, the true events are as follows: On 21 July 1994, a Tatmadaw column sited and cleared 105 huts belonging to the family quarters of the Mon armed group. Four members of the Mon armed group were captured at the site. Upon questioning, it was revealed that there was a big camp with nearly 2,000 persons at the base of a hill to the north-west, and that there were about 40 members of the armed group on the hill. As the Tatmadaw column proceeded to that area, it clashed with the armed group. Further skirmishes took place on 22 July 1994. During these encounters, one member of the Tatmadaw gave his life while two others were wounded. The Tatmadaw column did not move into the Halockhami Mon camp, but returned to Thanbyuzayat. On the way back, they discovered about 1,000 timber logs felled by the Mon armed group which were about to be smuggled out. At the site, seven civilians were held for questioning. They were later released, and only the four members of the Mon armed group were detained. The Tatmadaw column only entered and cleared a camp occupied by over 300 family members of the Mon armed group, situated near the Halockhami Mon camp. They never entered the Halockhami camp. The Tatmadaw column was only performing its duty for the peace and security of the area and there has never been any ill-treatment or human right violations against the area residents. The people living in this camp crossed over into the neighbouring country for reasons of their own.

"47. According to the Thai newspapers, it is learnt that about 5,000 Mons crossed over into Thailand. The so-called 'Mon refugees' returned to Myanmar from 9 to 15 September 1994 because of persuasion by the Thai authorities, and because of shortage of food supplies."

4. The following is the full text of the Government of Myanmar's response to the five specific questions the Special Rapporteur put to the Government of Myanmar in his letter dated 5 October 1994 (see A/49/594, para. 8):

"Responses to the queries made by the Special Rapporteur on the situation of human rights in Myanmar

[Response to question 1]

"1. The Myanmar authorities, in the statements made since action had to be taken against Daw Aung San Suu Kyi, made known the reasons for restraining her:

(a) That she had been influenced by anti-government, opportunistic politicians and insurgent groups in their attempt to seize political power for their own end, at a time when a political vacuum developed by the people's genuine desire to forsake the socialist economic system and their yearning for the return to a multi-party democratic system;

(b) For her own good and for the good of the country she had to be restrained in order to prevent her from promoting the cause of these unsavoury political elements who found their way and got themselves into positions of influence around her to create disunity among the only unified establishment left in this country, the Tatmadaw, which was endeavouring to stabilize the situation created by the political vacuum;

(c) Despite repeated caution on the part of the authorities, she made seditious speeches inciting the people to acts of violence and to cause division within the armed forces and division between the armed forces and the people.

"2. The specific legal authority for restraining Daw Aung San Suu Kyi is the 1975 Law to Safeguard the State against the Dangers of Those Desiring to Cause Subversive Acts. Under this law, if there are reasons to believe that any citizen has done or is doing or is about to do any act which infringes the sovereignty and security of the State or public peace and tranquillity, the Council of Ministers is empowered to pass an order, as may be necessary, restricting any fundamental right of such person.

"3. Also, under section 10 (b) and section 14 of this 1975 Law to Safeguard the State against the Dangers of Those Desiring to Cause Subversive Acts, there is the legal basis for the restraint of Daw Aung San Suu Kyi after 20 July 1994. Under this Law the Council of Ministers may pass an order as may be necessary restricting any fundamental right of a citizen if there are reasons to believe that he has committed, or is committing, or is about to commit, any act which infringes the sovereignty and security of the State or public peace and tranquillity. To exercise such power a Central Body, consisting of the Minister for Home Affairs as Chairman, and the Minister for Defence and the Minister for Foreign Affairs as members has been formed.

"4. The Central Body in passing restriction orders for safeguarding the State against dangers has the following powers:

(a) Arresting and detaining a person for a period not exceeding 60 days at a time, up to a total of 180 days;

(b) Restraining a person up to one year.

"5. If it becomes necessary to extend the period of detention or restraint, the Central Body may be authorized by the Council of Ministers to detain or restrain a person for a period not exceeding one year at a time, up to a total of five years.

"6. In accordance with section 13 of the Law, the Central Body shall obtain the prior sanction of the Council of Ministers if it is necessary to continue the restraint of the person against whom action is taken for a period longer than contained in section 10 (b).

"7. In so doing, in accordance with section 14 of the Law, the Council of Ministers may, in granting prior sanction to continue the detention and arrest or to continue to restrain, permit a period not exceeding one year at a time up to a total of five years.

"8. Hence, the Central Body can restrain a person for one year with its own mandate under section 10 (b) of the Law, and with the prior sanction of the Council of Ministers, can extend the period of restraint for five years in accordance with section 14 of the Law.

"9. In view of the foregoing, there is the legal basis for restraining Daw Aung San Suu Kyi after 20 July 1994 based on section 10 (b) and section 14 of the 1975 Law to Safeguard the State against the Dangers of Those Desiring to Cause Subversive Acts.

[Response to question 2]

"10. Regarding her physical well-being, other than being allowed to move outside her compound, she is free to live as she wishes within her property and enjoy all other privileges. She lives as she pleases, listens to the radio, watches television, reads, writes, exercises, sings and plays the piano and guitar. She has always had one maid to help her.

"11. She has no social difficulties. She can meet freely with her immediate family, and since the beginning of her restraint, her husband, Mr. Michael Aris, has visited her nine times, her elder son Alexander five times, and her younger son Kim eight times. She is allowed to write freely to her family and receive correspondence and parcels from them.

"12. She can meet freely with relatives who come to meet and live within her compound. She can also invite revered monks to her house to offer soon alms to them.

"13. Apart from giving Congressman Bill Richardson the opportunity to meet with Daw Aung San Suu Kyi two times when he last visited Myanmar, arrangements were made for her mother-in-law, Mrs. Evelyn Aris, on her arrival in Yangon on 28 October 1994, to spend a week together with Daw Aung San Suu Kyi.

"14. Daw Aung San Suu Kyi's health is in a good state.

[Response to question 3]

"15. The Chairman of the State Law and Order Restoration Council, Senior General Than Shwe, and First Secretary Lieutenant General Khin Nyunt, met with Daw Aung San Suu Kyi on 20 September 1994. Subsequently, another meeting took place between Lieutenant General Khin Nyunt and Daw Aung San Suu Kyi on 28 October 1994. Brigadier General Than Oo, the Judge Advocate General, and Brigadier General Tin Aye, the Inspector General of the Defence Services, were also present at the meeting. Such meetings are expected to take place again. Meetings with Daw Aung San Suu Kyi are regarded as purely an internal affair of Myanmar.

[Response to question 4]

"16. In its Declaration No.11/92 of 24 April 1992, the State Law and Order Restoration Council declared that it would convene a national convention within six months for the purpose of laying down basic principles to draft a new constitution, and that it would meet within two months with the leaders of the representatives elect of the political parties and independent representatives elect.

"17. A 15-member Steering Committee was formed on 28 May 1992, to coordinate with the representatives elect concerning the convening of a national convention. The coordinating meetings were held on 23 June, 30 June and 10 July 1992. Representatives from the National League for Democracy, Shan Nationalities League for Democracy, National Unity Party, Union Pa-O National Organization, Mro alias Khami National Solidarity Organization, Shan State Kokang Democratic Party, Lahu National Development Party and one independent representative attended these meetings, at the end of which a report on the type and number of delegates to attend the National Convention was submitted.

"18. The State Law and Order Restoration Council formed a National Convention Convening Commission according to Declaration No.13/92 of 2 October 1992. The duties and responsibilities of the Commission are as follows:

(a) To convene a national convention for laying down basic principles in order to draft a constitution;

(b) To ensure that the delegates keep to the following objectives during their discussions:

(i) Non-disintegration of the Union;

(ii) Non-disintegration of national unity;

(iii) Perpetuation of national sovereignty;

(iv) To establish and promote a genuine multi-party democratic system;

(v) To uphold the noble values of justice, liberty and equality;

(vi) For the Tatmadaw to take part in the national political leadership role of the State;

(c) To make arrangements for the delegates to be able to present their views, suggestions and proposals systematically.

"19. The Convening Commission for the National Convention, in order to be able to carry out its duties effectively, formed a National Convention Convening Work Committee and a Management Committee for Convening the National Convention.

"20. The National Convention Convening Commission, on the basis of the discussions at the coordinating meetings, decided that the following categories of representatives should attend the National Convention:

(a) Representatives from political parties;

(b) Representatives-elect;

(c) Representatives of national racial groups;

(d) Representatives of peasants;

(e) Representatives of workers;

(f) Representatives of the intelligentsia and technocrats;

(g) Representatives of state service personnel;

(h) Other invited personages.

"21. The State Law and Order Restoration Council issued Declaration No.14/92 on 5 November 1992, stating that the National Convention would be held on 9 January 1993.

"22. Fifteen chapters to be included in the constitution were agreed upon during the plenary session of the National Convention held from 9 January to 7 April 1993.

"23. One hundred and four principles which will serve as the basis for the new constitution were agreed upon during the plenary session of the National Convention held from 7 June to 16 September 1993.

"24. The plenary sessions held from 18 January to 9 April 1994 produced chapters on the State, the State structure and the Head of State.

"25. The plenary session reconvened on 2 September 1994, and the Chairman of the National Convention Convening Work Committee clarified basic facts and suggestions concerning the self-administered areas, legislature, executive branch and judiciary.

"26. At present, the delegates attending the National Convention are preparing papers reflecting their views and suggestions to submit to the National Convention Convening Work Committee.

"27. Once all the papers from the various delegate groups have been submitted to the National Convention Convening Work Committee, they will be presented at the plenary session. Subsequently, the details of the basic principles will be worked out."

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General Assembly

Distr.
GENERAL

A/49/595
28 October 1994

ORIGINAL: ENGLISH

Forty-ninth session
Agenda item 100 (b)

HUMAN RIGHTS QUESTIONS: HUMAN RIGHTS QUESTIONS, INCLUDING ALTERNATIVE APPROACHES FOR IMPROVING THE EFFECTIVE ENJOYMENT OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS

Strengthening of the Centre for Human Rights of the Secretariat

Report of the Secretary-General

1. In its resolution 48/129 of 20 December 1993 on the strengthening of the Centre for Human Rights of the Secretariat, the General Assembly, noting that the difficult financial situation of the Centre had created considerable obstacles to the implementation of the various procedures and mechanisms, had negatively influenced the servicing by the Secretariat of the bodies concerned and had impaired the quality and precision of the reporting, requested the Secretary-General to make additional proposals to increase further the resources of the human rights programme in 1994-1995, so as to enable the Centre fully to discharge its duties implementing all the mandates assigned to it by the Assembly and other legislative bodies. Furthermore, it requested the Secretary-General and Member States to ensure that appropriate additional resources from within the existing and future regular budgets of the United Nations were accorded to the Centre to enable it to carry out, in full and on time, the mandates contained in the Vienna Declaration and Programme of Action 1/ adopted by the World Conference on Human Rights, without diverting resources from development programmes and activities of the United Nations. The Assembly also requested the Secretary-General to submit an interim report to the Commission on Human Rights at its fiftieth session 2/ and a final report to the Assembly at its forty-ninth session on the strengthening of the Centre and on the measures taken to implement the resolution. The present report is submitted pursuant to that request.

2. In the light of the significant expansion of the Centre's traditional activities and the new demands that have been placed on it resulting from the additional mandates adopted by the Commission on Human Rights and other legislative bodies, the General Assembly at its forty-eighth session approved

the proposals of the Secretary-General included in his proposed programme budget for the biennium 1994-1995 (section 21) which contained the establishment for the Centre of 27 posts at the Professional level and 16 at the General Service level, including: (a) 19 posts at the Professional level (1 P-5, 3 P-4, 10 P-3 and 5 P-2) which were redeployed to the Centre in 1992 and 1993 on a temporary basis; (b) 2 posts at the Professional level (1 P-4 and 1 P-3) and 1 General Service post for the substantive servicing of the Committee against Torture, which were previously funded from extrabudgetary resources; (c) 6 new posts at the Professional level (1 D-1, 1 P-4 and 4 P-3); and (d) 15 new General Service posts. In addition, the General Assembly approved the conversion of 12 temporary posts (3 P-4, 3 P-3 and 6 General Service) into established posts.

3. While approving resources for the Centre, the General Assembly requested the Secretary-General to review the allocation of resources among the approved programmes of the Centre so as to ensure the most effective delivery of all mandated activities and requested the Secretary-General to provide the information requested by the Advisory Committee on Administrative and Budgetary Questions for review by the General Assembly at its resumed forty-eighth session (General Assembly resolution 48/228, sect. II). The Advisory Committee had requested information relating to the precise description of the functions to be performed by the incumbents of the new posts approved by the General Assembly and an explanation of the programmatic justifications for the proposed redeployment of posts. The Secretary-General's report (A/C.5/48/77), containing the information requested, was submitted to the Assembly at its resumed forty-eighth session.

4. Regarding the establishment of the post of the United Nations High Commissioner for Human Rights (General Assembly resolution 48/141 of 20 December 1993), the Secretary-General indicated (A/C.5/48/61) that a number of additional posts - one Under-Secretary-General, two P-5 and three General Service posts - and operational funds would be required, totalling $1,471,400. The General Assembly did not approve the establishment of these posts. It authorized the Secretary-General to enter into commitments of up to US$ 1,471,400 under section 21 of the programme budget for the biennium 1994-1995, to provide for the High Commissioner and his office and to consider such additional appropriation as might be necessary and not to exceed $1,471,400 at its resumed forty-eighth session. At that session, the Assembly decided to defer consideration of the question to its forty-ninth session.

5. The General Assembly endorsed the Vienna Declaration and the Programme of Action (resolution 48/121 of 20 December 1993). The Secretary-General indicated (A/C.5/48/46) that one P-5, one P-4 and two General Service posts would be required, as well as operational funds totalling $1,167,500. The Assembly did not approve those posts. It authorized the Secretary-General to enter into all the commitments necessary under section 21 of the programme budget for the biennium 1994-1995 within the above amount in respect of the full implementation of the activities envisaged in the resolution and to consider such additional appropriation as might be necessary and not to exceed $1,167,500 at its resumed forty-eighth session. At that session, the Assembly decided to defer consideration of the question to its forty-ninth session.

6. Furthermore, following consideration of the revised estimates regarding the implementation of Economic and Social Council decision 1993/254 relating to the continued United Nations human rights presence in Cambodia, the General Assembly appropriated an amount of US$ 550,000 pending the submission of a report providing detailed justifications. The Secretary-General's report (A/C.5/48/78) providing this information was submitted to the Assembly at its resumed forty-eighth session. The Assembly authorized the Secretary-General to enter into additional commitments up to $1,834,100 under section 21 of the programme budget for the biennium 1994-1995 for the financing of the human rights activities in Cambodia.

Notes

1/ Report of the World Conference on Human Rights, Vienna, 14-25 June 1993 (A/CONF.157/24 (Part I), chap. III).

2/ E/CN.4/1994/74.

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General Assembly
Security Council

Distr.
GENERAL

A/49/596
S/1994/1225
28 October 1994

ORIGINAL: ENGLISH

GENERAL ASSEMBLY
Forty-ninth session
Agenda item 70
MAINTENANCE OF INTERNATIONAL SECURITY

SECURITY COUNCIL
Forty-ninth year

Letter dated 28 October 1994 from the Permanent Representative of Turkey to the United Nations addressed to the Secretary-General

I have the honour to transmit herewith a letter dated 28 October 1994 addressed to you by H.E. Mr. Osman Ertuğ, Representative of the Turkish Republic of Northern Cyprus.

I should be grateful if the text of the present letter and its annex could be circulated as a document of the forty-ninth session of the General Assembly, under agenda item 70, and of the Security Council.

(Signed) İnal BATU
Permanent Representative

Annex

Letter dated 28 October 1994 from Mr. Osman Ertuğ
addressed to the Secretary-General

I have the honour to refer to a speech made by Mr. Alecos Shambos, the Greek Cypriot representative, at the 9th meeting of the First Committee during the general debate on disarmament and international security agenda items on 24 October 1994.

Owing to the fact that the Turkish Cypriot side has no representation in the General Assembly and its relevant Committee as a result of the forcible usurpation of the seat of government by the Greek Cypriot side in December 1963, my response is in writing.

The Greek Cypriot representative, in a manner that has become characteristic of his administration's "blame game" against Turkey and the Turkish Cypriot side, refers to the "continuing Turkish military occupation" in Cyprus. We totally reject this wrong and misleading terminology as another sign of the inability of the Greek Cypriot side to come to terms with the reality, the reality that Turkey, as a Guarantor Power under the Treaty of Guarantee of 1960, plays only a protective and deterrent role in Cyprus, providing the Turkish Cypriots with the security they need for their survival by preventing the repetition of Greek Cypriot aggression.

I wish to stress that the Greek Cypriot side's words on "demilitarization and disarmament in Cyprus" are empty rhetoric. It is obvious that this is a ploy to deprive the Turkish Cypriots of the only effective means of security, and eventually do away with them by using the Greek Cypriot side's numerical advantage, as they attempted to do in 1963 when the island was virtually demilitarized. It was then largely the Greek Cypriot paramilitary forces, private armies and other underground armed elements that played havoc with the Turkish Cypriot community, and it was only Turkey's guarantee that prevented the Greek Cypriot aggressors from completing their bloody schemes.

If, however, the Greek Cypriot side is serious about improving relations and consolidating security on the island, it should respond positively to President Rauf Denktaş' proposal for a non-aggression agreement between the two sides. In the existing atmosphere of mistrust, this is a much more realistic and constructive proposal both for alleviating some of this mistrust and for addressing any further security concerns that each side may have.

I would be grateful if the present letter is circulated as a document of the General Assembly, under agenda item 70, and of the Security Council.

(Signed) Osman ERTUĞ
Representative
Turkish Republic of Northern Cyprus

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General Assembly
Security Council

Distr.
GENERAL

A/49/597
S/1994/1226
28 October 1994

ORIGINAL: ENGLISH

GENERAL ASSEMBLY
Forty-ninth session
Agenda item 51
QUESTION OF CYPRUS

SECURITY COUNCIL
Forty-ninth year

Letter dated 28 October 1994 from the Permanent Representative of Cyprus to the United Nations addressed to the Secretary-General

Upon instructions from my Government, I have the honour to draw your attention to new violations of the airspace of the Republic of Cyprus by Turkey's military air force, which were recorded as follows.

On 18 October 1994:

(a) From 1457 to 1527 hours, two Turkish air force fighter aircraft violated the north-western flight information region (FIR) of Nicosia, flying at a speed of 466 knots and at an altitude of 200 to 7,000 feet;

(b) From 1510 to 1536 hours, two Turkish air force fighter aircraft violated the north-western FIR of Nicosia, flying at a speed of 380 knots and at an altitude of 9,000 to 16,000 feet;

(c) From 1503 to 1549 hours, two Turkish air force fighter aircraft violated the north-western FIR of Nicosia, flying at a speed of 430 knots and at an altitude of 9,000 to 25,000 feet;

(d) From 1550 to 1616 hours, two Turkish air force fighter aircraft violated the north-western and northern FIR of Nicosia, flying at a speed of 450 knots and at an altitude of 5,000 to 18,000 feet.

On 19 October 1994:

(a) From 1021 to 1102 hours, four Turkish air force fighter aircraft violated the FIR of Nicosia. Two of these aircrafts, at 1027 hours, executed mock assaults and departed at 1057 hours at a speed of 450 knots and an altitude of 1,200 to 23,000 feet;

(b) From 1124 to 1156 hours, two Turkish air force fighter aircraft violated the FIR of Nicosia and executed mock assaults, flying at a speed of 450 knots and an altitude of 1,200 to 22,000 feet;

(c) From 1127 to 1143 hours, two Turkish air force fighter aircraft violated the airspace of Kormakitis at a speed of 358 to 500 knots and an altitude of 32,000 to 34,000 feet;

(d) From 1354 to 1558 hours, six formations of two Turkish air force fighter aircraft each violated the northern FIR of Nicosia and executed military exercises at a speed of 300 to 500 knots and an altitude of 300 to 23,000 feet.

On behalf of the Government of the Republic of Cyprus, I wish to protest strongly these new violations of the airspace of the Republic and, once again, to point out that these repeated aggressive actions violate the sovereignty, independence and territorial integrity of the Republic of Cyprus and are contrary to the Charter of the United Nations as well as the resolutions of the General Assembly and of the Security Council on the question of Cyprus.

I should be grateful if you would have the present letter circulated as a document of the forty-ninth session of the General Assembly, under agenda item 51, and of the Security Council.

(Signed) Alecos SHAMBOS
Permanent Representative

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GENERAL

A/49/598
31 October 1994

ORIGINAL: ENGLISH

Forty-ninth session
Agenda item 78

REPORT OF THE SPECIAL COMMITTEE TO INVESTIGATE ISRAELI PRACTICES AFFECTING THE HUMAN RIGHTS OF THE PALESTINIAN PEOPLE AND OTHER ARABS OF THE OCCUPIED TERRITORIES

Report of the Secretary-General

(in pursuance of General Assembly resolution 48/41 A)

1. The present report is submitted in pursuance of General Assembly resolution 48/41 A of 10 December 1993. Paragraph 8 of the resolution reads as follows:

"The General Assembly,

"...

"8. Requests the Secretary-General:

"(a) To provide all necessary facilities to the Special Committee, including those required for its visits to the occupied territories, so that it may investigate the Israeli policies and practices referred to in the present resolution;

"(b) To continue to make available such additional staff as may be necessary to assist the Special Committee in the performance of its tasks;

"(c) To circulate regularly to Member States the periodic reports mentioned in paragraph 6 above;

"(d) To ensure the widest circulation of the reports of the Special Committee and of information regarding its activities and findings, by all means available, through the Department of Public Information of the Secretariat and, where necessary, to reprint those reports of the Special Committee that are no longer available;

"(e To report to the General Assembly at its forty-ninth session on the tasks entrusted to him in the present resolution".

2. All necessary facilities were provided to the Special Committee. Arrangements were made for it to meet in January, April-May and August 1994. Furthermore, the Special Committee carried out a field mission to Egypt, Jordan and the Syrian Arab Republic in April-May 1994. Two periodic reports and the twenty-sixth annual report of the Special Committee were circulated to Member States (A/49/67, dated 4 February 1994, A/49/172, dated 7 June 1994, and A/49/511, dated 18 October 1994, respectively).

3. In paragraph 8 (d) of its resolution 48/41 A, the General Assembly requested the Secretary-General to ensure the widest circulation of the reports of the Special Committee and of information regarding its activities and findings, by all means available, through the Department of Public Information of the Secretariat and, where necessary, to reprint those reports of the Special Committee which are no longer available.

4. Pursuant to paragraph 8 (d) of resolution 48/41 A, the Department of Public Information undertook the following activities:

(a) The Department of Public Information continued to provide press coverage of all meetings of the Special Committee and to feature and distribute United Nations information materials, documents and press releases on the activities of the Special Committee to representatives of non-governmental organizations and to the public at large through the United Nations information centres and services;

(b) In a revised edition of a booklet to be published in September 1994, in English, under the title The United Nations and the Question of Palestine, and at a later date in Arabic, Chinese, French, German, Russian and Spanish, the Department devoted a full chapter to human rights in the occupied territories. For the drafting of that chapter, the Department used extensively material available in reports of the Special Committee, including most recent ones;

(c) The Department of Public Information, both at Headquarters and through the United Nations information centres and services, publicized the Special Committee's 1994 mission to the Middle East.

5. It should also be noted that, on 19 May 1994, the Secretary-General addressed a note verbale to all States drawing attention to resolutions 48/41 A to D.

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Distr.
GENERAL

A/49/599
31 October 1994

ORIGINAL: ENGLISH

Forty-ninth session
Agenda item 78

REPORT OF THE SPECIAL COMMITTEE TO INVESTIGATE ISRAELI PRACTICES AFFECTING THE HUMAN RIGHTS OF THE PALESTINIAN PEOPLE AND OTHER ARABS OF THE OCCUPIED TERRITORIES

Report of the Secretary-General

(in pursuance of General Assembly resolution 48/41 B)

1. The present report is submitted in pursuance of General Assembly resolution 48/41 B of 10 December 1993, the operative part of which reads as follows:

"The General Assembly,

"...

"1. Reaffirms that the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, is applicable to the occupied Palestinian territory, including Jerusalem, and other Arab territories occupied by Israel since 1967;

"2. Demands that Israel accept the de jure applicability of the Convention in the occupied Palestinian territory, including Jerusalem, and other Arab territories occupied by Israel since 1967, and that it comply scrupulously with the provisions of the Convention;

"3. Calls upon all States parties to the Convention, in accordance with article 1 common to the four Geneva Conventions, to exert all efforts in order to ensure respect for its provisions by Israel, the occupying Power, in the occupied Palestinian territory, including Jerusalem, and other Arab territories occupied by Israel since 1967;

"4. Requests the Secretary-General to report to the General Assembly at its forty-ninth session on the implementation of the present resolution."

2. On 19 May 1994, the Secretary-General addressed a note verbale to the Minister for Foreign Affairs of the State of Israel, in which he requested, in view of his reporting responsibilities under the resolution, that the Minister inform him of any steps his Government had taken or envisaged taking concerning the implementation of the relevant provisions of the resolution.

3. No reply had been received at the time of the preparation of the present report.

4. On 19 May 1994, the Secretary-General also drew the attention of all States parties to the Convention to paragraph 3 of resolution 48/41 B.

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GENERAL

A/49/600
31 October 1994

ORIGINAL: ENGLISH

Forty-ninth session
Agenda item 78

REPORT OF THE SPECIAL COMMITTEE TO INVESTIGATE ISRAELI PRACTICES AFFECTING THE HUMAN RIGHTS OF THE PALESTINIAN PEOPLE AND OTHER ARABS OF THE OCCUPIED TERRITORIES

Report of the Secretary-General

(in pursuance of General Assembly resolution 48/41 C)

1. The present report is submitted in pursuance of General Assembly resolution 48/41 C of 10 December 1993, the operative part of which reads as follows:

"The General Assembly,

"...

"1. Determines that all measures and actions taken by Israel, the occupying Power, in the occupied Palestinian territory, including Jerusalem, in violation of the relevant provisions of the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, and contrary to the relevant resolutions of the Security Council, are illegal and have no validity, and demands that Israel desist forthwith from taking any such measures or actions;

"2. Demands that Israel, the occupying Power, facilitate the return of all Palestinians deported from the occupied Palestinian territory since 1967;

"3. Calls upon Israel, the occupying Power, to accelerate the release of all Palestinians arbitrarily detained or imprisoned;

"4. Calls for complete respect by the occupying Power of all fundamental freedoms of the Palestinian people, such as the freedom of education, including the free operation of schools, universities and other educational institutions;

"5. Reaffirms that the Israeli settlements in the occupied Palestinian territory, including Jerusalem, and the other Arab territories occupied by Israel since 1967 are illegal and an obstacle to peace;

"6. Requests the Secretary-General to report to the General Assembly at its forty-ninth session on the implementation of the present resolution."

2. On 19 May 1994, the Secretary-General addressed a note verbale to the Minister for Foreign Affairs of the State of Israel, in which he requested, in view of his reporting responsibilities under the resolution, that the Minister inform him of any steps his Government had taken or envisaged taking concerning the implementation of the relevant provisions of the resolution.

3. No reply had been received at the time of the preparation of the present report.

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GENERAL

A/49/601
31 October 1994

ORIGINAL: ENGLISH

Forty-ninth session
Agenda item 78

REPORT OF THE SPECIAL COMMITTEE TO INVESTIGATE ISRAELI PRACTICES AFFECTING THE HUMAN RIGHTS OF THE PALESTINIAN PEOPLE AND OTHER ARABS OF THE OCCUPIED TERRITORIES

Report of the Secretary-General

(in pursuance of General Assembly resolution 48/41 D)

1. The present report is submitted in pursuance of General Assembly resolution 48/41 D of 10 December 1993, the operative part of which reads as follows:

"The General Assembly,

"...

"1. Condemns Israel, the occupying Power, for its refusal to comply with the relevant resolutions on the occupied Syrian Golan, and in particular Security Council resolution 497 (1981), in which the Council, inter alia, decided that the Israeli decision to impose its laws, jurisdiction and administration on the occupied Syrian Arab Golan was null and void and without international legal effect and demanded that Israel, the occupying Power, should rescind forthwith its decision;

"2. Also condemns the persistence of Israel in changing the physical character, demographic composition, institutional structure and legal status of the occupied Syrian Golan and in particular the establishment of settlements;

"3. Determines that all legislative and administrative measures and actions taken or to be taken by Israel, the occupying Power, that purport to alter the character and legal status of the occupied Syrian Golan are null and void, constitute a flagrant violation of international law and of the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, and have no legal effect;

"4. Denounces attempts by Israel forcibly to impose Israeli citizenship and Israeli identity cards on the Syrian citizens in the occupied Syrian Golan, and calls upon it to desist from its repressive measures against the population of the occupied Syrian Golan;

"5. Deplores the violations by Israel of the Convention;

"6. Calls once again upon Member States not to recognize any of the legislative or administrative measures and actions referred to above;

"7. Requests the Secretary-General to report to the General Assembly at its forty-ninth session on the implementation of the present resolution."

2. On 19 May 1994, the Secretary-General addressed a note verbale to the Minister for Foreign Affairs of the State of Israel, in which he requested, in view of his reporting responsibilities under the resolution, that the Minister inform him of any steps his Government had taken or envisaged taking concerning the implementation of the relevant provisions of the resolution.

3. No reply had been received at the time of the preparation of the present report.

4. On 19 May 1994, the Secretary-General also drew the attention of all Member States to paragraph 6 of resolution 48/41 D.

UNITED NATIONS **A**

General Assembly

Distr.
GENERAL

A/49/602
31 October 1994

ORIGINAL: ENGLISH

Forty-ninth session
Agenda item 33

QUESTION OF EQUITABLE REPRESENTATION ON AND INCREASE IN THE MEMBERSHIP OF THE SECURITY COUNCIL AND RELATED MATTERS

Letter dated 31 October 1994 from the Permanent Representative of the Democratic People's Republic of Korea to the United Nations addressed to the President of the General Assembly

With regard to the letter dated 19 October 1994 addressed by Japan to the President of the General Assembly (A/49/551), I wish to stress the position of the Democratic People's Republic of Korea relating to the Japanese attempt to become a permanent member of the Security Council.

Japan is obliged to make full apology and compensation for its past aggression and war crimes prior to seeking permanent membership in the Security Council.

Japan is the only country that has failed to make a clean slate of its State-sponsored aggressive war crimes and violations of human rights committed during and before the Second World War, such as those of "war comfort women" and forced drafting, including the punishment of war criminals even today after the lapse of 50 years.

At the meeting of the Commission on Human Rights, non-governmental organizations involving the majority of victims have strongly opposed the proposed permanent membership of Japan, which has not yet liquidated its war crimes, in the Security Council.

Though Japan, which has thus far attempted to gloss over the State-sponsored war crimes by establishing the so-called "Civilian Fund", declared its intention not to repeat the tragedy of the Second World War, it has no authenticity at all.

The militarist utterance from the lips of the Cabinet Ministers of Japan that denies the Nanjing genocide and beautifies the Pacific war as a colonial liberation war is a reflection of the current policy pursued by Japan.

Japan is spurring its development as a military and nuclear power, as shown by the facts, such as its second place position in the world in military expenditure, its concealment of 70 kg of plutonium and its dispatch of self-defence forces abroad.

Therefore, Japan's permanent membership in the Security Council will only contribute to accelerating its already-started process to that end.

If Japan, with such an unsavoury background, becomes a permanent member of the Security Council, it would mean that Japan has bought the seat of a permanent membership. It would thus also be a mockery of international justice and the consciousness of mankind.

The main obstacle to the relationship between the Democratic People's Republic of Korea and Japan is not the position of the Democratic People's Republic of Korea vis-à-vis the proposed permanent membership of Japan, but the attitude of Japan, which is devoid of the will to liquidate its past wrongdoings. Japan should act reasonably and with discretion.

I would be grateful if you would have this letter circulated as a document of the General Assembly under agenda item 33.

(Signed) PAK Gil Yon
Ambassador
Permanent Representative
to the United Nations